



Direct Dial: 972-695-1201
Direct Fax: 214-731-2933
Email: mdevereux@homeinteriors.com

July 17, 2006

Via Electronic Submission

Federal Trade Commission
Office of the Secretary
Room H-135
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Business Opportunity Rule, R511993

Dear Sir or Madam:

I am writing this letter to you on behalf of Home Interiors & Gifts, Inc., a direct selling company (the "Company") that has been in existence for forty-nine years. Our Company is based in Dallas, Texas and we sell products such as framed artwork and mirrors, candles and candle holders, plaques, figurines, planters, artificial floral displays, wall shelves and sconces, to independent contractor sales representatives ("Decorating Consultants"). Our Decorating Consultants resell the products primarily using the "party plan" method to conduct in-home presentations or shows for potential customers. Currently, the Company has over 100,000 Decorating Consultants in the United States, Mexico, Puerto Rico and Canada.

I am writing this letter because my Company is very concerned about the proposed New Business Opportunity Rule, R511993 (the "Rule"). In its present form, the Rule could cripple the businesses of our Decorating Consultants and, therefore, the Company. We understand that one of the FTC's responsibilities is to protect the public from "unfair and deceptive acts or practices" and we do our best to maintain that same standard within the Company. However, in this global economy where our Decorating Consultants are forced to compete with not only other direct sellers but also other retailers of home decorating accessories, some of the sections in the proposed Rule will make it impossible for them to continue their businesses. If our Decorating Consultants do not succeed, then neither does this Company that is about to celebrate its fiftieth anniversary.

Seven Day Waiting Period

One of our greatest concerns is the section of the Rule requiring a seven day waiting period before new recruits can enroll with the Company. We feel this section of the Rule is confusing and would create an unreasonable burden for our Decorating Consultants.

For the past couple of years, the start-up sales kit for the Company has cost anywhere from \$99 to \$199. I can walk into any store in America or, for that matter, shop online for millions of items that are more expensive than our sales kits and never have to wait longer than it takes me to pay, much less seven days. Our world is full of instantaneous consumer consumption. To move any slower risks the viability of our business.

In addition, the waiting period is unnecessary because the Company already has a 90% buy back policy for all products, including sales kits, purchased by a Decorating Consultant within the last twelve months.

If this waiting period is enacted, the Company would need to keep very detailed records when a Decorating Consultant first makes contact with a prospective purchaser. Additionally, the Company would then be required to maintain these extensive records for three years. The administrative costs related with these requirements would not only be expensive and cumbersome to the Company, but also to each of our Decorating Consultants.

Elimination of \$500 Threshold

Because the proposed Rule would eliminate the existing \$500 threshold under the Franchise Rule, the Company would fall under FTC regulatory authority. As a result, the Company would have to produce numerous pieces of documented materials in order to comply with the Rule's requirements. Eliminating the threshold would actually result in compliance costs which would far outweigh the benefits of the pre-sale disclosures.

Release of Litigation Information

The Rule also calls for the release of *any* Company information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices. Under the current proposed Rule, it would not matter if the Company was found to be innocent of the allegations. It is an unfortunate reality that anyone or any company can be sued for almost anything. We see little value in disclosing these lawsuits unless the Company is found guilty of some wrongdoing. To require otherwise is to put the Company at a significant disadvantage, especially if allegations of misrepresentation or unfair or deceptive practices are unfounded. Put another way, I would not expect to receive such information from Wal-Mart® or Target®, much less the mom and pop shop down the street that sells home decorative products.

In addition, it seems that claims of misrepresentation are part of almost every complaint in today's litigation matters. Should prospective Decorating Consultants be concerned, for example, about litigation between the Company and a convention center if their contract dispute contains a claim for misrepresentation? We suggest that release of litigation information only be

required if it is related to the earning opportunity offered to the prospective Decorating Consultant.

Earnings Claims

As it is currently written, the Rule requires direct sellers to gather information such as time periods, demographic and geographic data for Decorating Consultants and earnings claims. Those perpetuating fraudulent business opportunities will not provide accurate data, making this approach ineffective in protecting consumers against the very business opportunity fraud targeted by this Rule. Meanwhile, direct sellers who do their best to comply with FTC requirements, such as our Company and its Decorating Consultants, will face the nearly impossible task of interpreting and meeting some of the proposed requirements.

Disclosure of References

Finally, the proposed Rule requires the disclosure of a minimum of ten prior purchasers nearest to the prospective purchaser. The Company is happy to provide references so potential recruits are confident in their decision to enroll as one of our Decorating Consultants. However, at a time when identity theft is so prevalent, we are very uncomfortable giving out the personal information of individuals to strangers without prior consent, especially if that information belongs to our Decorating Consultants. We fear the requirement that direct sellers provide references may cause a backlash of privacy lawsuits and a loss of a number of our Decorating Consultants.

In order to generate the list of the ten prior purchasers, we will need to obtain the address of the prospective purchaser, search our database for the geographically nearest active Decorating Consultants, use a software program or online service to confirm these are the correct Decorating Consultants, and then send these results to the prospective purchaser. The time and expense of this requirement would be immense, as the search would be unique every time.

We also fear that the following sentence, required by the Rule, will prevent many individuals from wanting to enroll as a Decorating Consultant: "If you buy a business opportunity from the seller, your contact information can be disclosed in the future to other buyers." Individuals are very concerned about their privacy and are wary of the constant threat of identity theft. Therefore, individuals will be very reluctant to share their personal contact information with someone who may be a complete stranger. We are concerned about the same issues from a privacy litigation standpoint.

Conclusion

Home Interiors & Gifts, Inc. greatly appreciates the work of the FTC in protecting consumers. However, we believe this proposed Rule has many unintended consequences, which may greatly harm or even destroy this Company just as it prepares to celebrate its fiftieth anniversary. We also believe there are less burdensome alternatives available in achieving the consumer protection goals stated in the proposed rule.

Federal Trade Commission
Re: Business Opportunity Rule, R511993
July 17, 2006
Page 4 of 4

Thank you for your time in considering our comments. I will be happy to speak with you at any time regarding our concerns about the proposed Rule. Please contact me if you have any questions. I can be reached at (972) 695-1201.

Best regards,

Melissa Devereux
Staff Attorney
Home Interiors & Gifts, Inc.

Cc: John Webb, Direct Selling Association (Fax: 202-452-9010)
Ed Mosley, Home Interiors & Gifts, Inc. – via interoffice mail
Harry Gray, Home Interiors & Gifts, Inc. – via interoffice mail